

AMENDED IN ASSEMBLY AUGUST 17, 2005

AMENDED IN ASSEMBLY AUGUST 15, 2005

AMENDED IN ASSEMBLY JULY 7, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 25, 2005

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL**No. 954**

Introduced by Senators Figueroa and Dutton

February 22, 2005

An act to add Sections 12103.5, 12104, 12104.5, and 12114 to the Public Contract Code, relating to public contracts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 954, as amended, Figueroa. Information technology goods and services: procurement.

Existing law sets forth the requirements for the acquisition of information technology goods and services by the state, and requires all contracts for the acquisition of those goods and services to be made by or under the supervision of the Department of General Services, with expenditures in this regard subject to the review and approval of the Department of Finance.

This bill makes certain findings regarding the manner in which state agencies procure information technology goods and services. This bill would require the Department of General Services, on or before January 1, 2007, to develop policies and guidelines for the procurement of information technology goods and services, including

developing checklists for requests for proposals, publishing policies regarding obtaining bids for and purchasing information technology, establishing a centralized entity responsible for information technology procurement methods within the Department of General Services, consolidating functions, and communicating rules and requirements to vendors and the general public.

This bill would additionally require the Governor, on or before January 1, 2007, to submit to the Legislature a *legislative* proposal to establish a Chief Information Officer within the Department of General Services, as described.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The State of California depends on information technology
4 goods and services to accomplish its legally mandated core
5 business functions and public services and it is in the best interest
6 of the state to procure these services according to best practices,
7 thereby rationalizing the process and providing a consistent basis
8 for communication and decisionmaking.

9 (b) Information technology improves the functioning of
10 government by providing increased public access and enhanced
11 customer service.

12 (c) Conducting business with technology industry vendors in a
13 professional manner with an attitude of cooperative, direct, and
14 straightforward communication serves the best interests of the
15 State of California and its citizens for the following reasons:

16 (1) Vendors can better respond to the state if published
17 business and technical requirements are clear.

18 (2) An efficient and effective procurement process saves the
19 state valuable dollars and time, mitigating overall project risk
20 long term.

21 (d) Information technology goods and services are complex
22 and multidimensional. The implementation of new technology
23 invariably impacts existing technology, dependent and

independent information technology systems, governmental business processes, operational expectations and outcomes, and future technical and operations choices for the functions of a governmental entity. Purchases, therefore, should be considered in the appropriate context with a total cost of ownership for the state.

(e) New information systems that require information technology goods and services for their implementation should be conceived in terms of a “solution.” Thinking and planning according to an information technology “solution” mindset appropriately considers the complete set of information technology goods and services required to complete an objective or set of objectives in the context of the actual business needs of the purchasing state agency. This also provides a means with which to consider the overall purchasing decision and weigh the benefits of different information technology options according to the total cost of ownership for the state.

SEC. 2. Section 12103.5 is added to the Public Contract Code, to read:

12103.5. Beginning January 1, 2007, for those information technology purchases for which the department determines that a request for proposal (RFP) is appropriate, the department shall complete the following information technology procurement checklist prior to releasing the RFP:

(a) Identify the legislative mandate, state business, or operational reason for the information technology procurement.

(b) Identify the existing business processes currently used to accomplish the legislative mandate, state business, or operational reason.

(c) Identify the most important priorities for the information technology project to accomplish.

(d) Identify what current technology is being used and how it is being used.

(e) If the data used in a proposed information technology system comes from multiple sources, identify the existing business processes or technical systems that produce and maintain the source data to ensure interoperability.

(f) Identify whether the proposed information technology system is already being used by the state. If so, determine what

1 can be learned from the design and implementation of the similar
2 system.

3 (g) Identify how the new information technology project
4 leverages existing technology investments while accomplishing
5 its business objectives.

6 SEC. 3. Section 12104 is added to the Public Contract Code,
7 to read:

8 12104. (a) (1) The State Administrative Manual shall be the
9 sole policy manual related to the department's purchase of
10 information technology.

11 (2) On or before January 1, 2007, all department policies
12 related to the purchase of information technology, including, but
13 not limited to, policies discussed in management memoranda,
14 shall be set forth entirely in the State Administrative Manual.

15 (3) Revisions to the manual must be publicly announced,
16 including, but not limited to, postings on the department's
17 Internet homepage.

18 (b) (1) The State Contracting Manual shall be the sole manual
19 related to the methods by which the department seeks to obtain
20 bids for the purchase of information technology.

21 (2) On or before January 1, 2007, all department methods
22 related to obtaining bids for the purchase of information
23 technology shall be set forth entirely in the State Contracting
24 Manual.

25 (3) Revisions to the manual must be publicly announced,
26 including, but not limited to, postings on the department's
27 Internet home page.

28 (c) On or before January 1, 2007, the department shall
29 designate a single entity within the department that shall be
30 solely responsible for the development, implementation, and
31 maintenance of standardized methods for the development of
32 information technology requests for proposals.

33 (d) On or before January 1, 2007, the department shall
34 consolidate those information technology procurement oversight
35 functions currently performed separately by the Procurement
36 Division and the Office of Legal Services.

37 (e) On or before January 1, 2007, the department shall, by
38 regulation, specify the types of information technology
39 procurements that shall be reviewed by the Office of Legal
40 Services, or its successor, prior to release to the public.

Regulations required by this paragraph shall be adopted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Regulations shall be included in the State Administrative Manual.

(f) On or before January 1, 2007, the department, in consultation with the Department of Technology *Services*, shall, by regulation, promulgate uniform standards for information technology procurement that prioritize how the technology will advance the public policy purpose of the state program the information technology will serve over the department's, or client's, preference for a particular information product design. Regulations required by this paragraph shall be adopted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The regulations shall be included in the State Administrative Manual.

SEC. 4. Section 12104.5 is added to the Public Contract Code, to read:

12104.5. (a) All rules and requirements governing a specific information technology procurement shall be communicated in writing to all vendors that have expressed an intent to bid and shall be posted in a public location. Any changes to the rules and requirements governing a specific information technology procurement shall be communicated in writing to all vendors that have expressed an intent to bid and shall be posted in a public location. No requirements other than those provided by law *or* outside of the published request for ~~procurement~~ *proposal* and posted addendums shall be used by the department to score bids.

(b) The requirements of this section shall be in addition to any other requirement provided by law.

SEC. 5. Section 12114 is added to the Public Contract Code, to read:

12114. On or before January 1, 2007, the Governor shall submit to the Legislature a *legislative* proposal to establish a Chief Information Officer ~~(CIO)~~. ~~The plan (CIO) and to designate an appropriate organizational location within state government for the CIO to exercise his or her authority. The proposal shall include, but not be limited to, proposals provisions that will:~~

1 (a) Allow the CIO to verify that the ~~department facilitating~~
2 *Department of Technology Services is performing in such a way*
3 *as to facilitate* further data center consolidation.

4 (b) Establish an information technology governing board. At a
5 minimum, the board shall have the power to set information
6 technology policy, approve information technology spending,
7 and establish standards for determining how well or poorly state
8 agencies are using information technology to improve their
9 performance.

10 (c) Establish standards regarding the information and data
11 collection practices of state agencies to ensure that
12 decisionmakers in those agencies are held accountable for the
13 performance of the agency, make informed decisions based upon
14 reliable, contemporary data, and have at their disposal data and
15 information revealing how the agency is performing, as measured
16 against the public policies that led to the creation of the programs
17 it administers.

18 (d) Ensure the CIO has the authority to exercise
19 enterprise-wide leadership over the procurement and use of
20 information technology.

21 SEC. 6. This act is an urgency statute necessary for the
22 immediate preservation of the public peace, health, or safety
23 within the meaning of Article IV of the Constitution and shall go
24 into immediate effect. The facts constituting the necessity are:

25 In order to protect the integrity of California's information
26 technology procurement practices, and to ensure that the state is
27 not wasting resources on poorly designed technology investments
28 that may fail to perform in critical state health and safety
29 programs, it is necessary that this act take effect immediately.